

STATE ADMINISTRATION

42.14.102 WHO MUST COLLECT THE TAX AND FILE RETURNS. 2

(1) Every owner or operator of a facility operating in Montana must collect the lodging facility use tax, rounded to the nearest penny, from the users of facilities and file returns with the department as required in ARM 42.14.107. 4/9/09
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(2) To determine taxability of a facility, the owner or operator should consider the type of operation.

If the operation is a: Use
 Step:

- | | |
|---|-----|
| Hotel, motel, hostel, public lodginghouse | (a) |
| and (b) | |
| or bed and breakfast facility | |
| Resort, condominium inn, dude ranch, | (c) |
| guest ranch facility, outfitting facility | |
| Campground | (d) |
| Dormitory | (e) |

(a) Compute the average daily accommodation charge (ADAC). If the ADAC is less than 60% of the allowable state reimbursement for the standard cost of in-state lodging, and the facility is a hotel, motel, hostel, public lodginghouse, or bed and breakfast facility, no further step is required. The owner or operator of the facility is not required to collect the tax. The exemption applies only to a hotel, motel, hostel, public lodginghouse, or bed and breakfast facility.

(b) If the ADAC is more than 60% of the allowable state reimbursement for the standard cost of in-state lodging, and the facility is a hotel, motel, hostel, public lodginghouse or

bed and breakfast facility, the second step is to look to the length of the rental period of the lodging facilities.

(i) If it is rented for 30 days or more the lodging facilities are not taxable.

(ii) If it is rented for less than 30 days the lodging facilities are taxable unless specifically exempted by ARM 42.14.103.

(c) If the facility is a resort, condominium inn, dude ranch, guest ranch, or outfitting facility, look at the length of the rental period of the lodging facilities as stated in (2) (b) (i) and (ii).

(d) If the facility is owned or operated by a non-profit or religious organization and the lodging facilities are rented primarily to youth under 18 years of ages for camping, no further step is needed. The facility is exempt from the tax. If not, look at the length of the rental period as stated in (2) (b) (i) and (ii).

(e) If the facility is a dormitory and the lodging facilities are rented to users enrolled in a regular academic program or a program of continuing education, no further step is needed. Charges for the lodging facilities are exempt. See ARM 42.14.103. If not, the tax must be collected on the accommodations charges.

Examples :Taxable

Health facility

OVER →

No		
Religious camps - primarily for youth		No
- occasionally for youth		
Yes		
Youth		
hostel		Yes
Federal		
campground		Yes
Campground - overnight		
trade	Yes	
- permanent space		
No		
Rooms rented to government employees		Yes
Dormitory - lodging facilities rental		
to non-enrolled students		
Yes		
- lodging facilities rental		
to enrolled students		
No		

(3) Every owner or operator of a facility shall be liable for all amounts required to be collected as a tax under the provisions of Title 15, chapter 65, MCA.

(4) An owner or operator of a facility has the right to request a hearing on a tax liability as provided in 15-1-705, MCA.

(5) If the tax or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7, MCA.

History: Sec. 15-65-102, MCA; IMP , Sec. 2-18-501, 15-65-101, 15-65-111, and 15-65-112, MCA; TEMP, NEW , 1987 MAR p. 1637, Eff. 9/25/87; AMD , 1992 MAR p. 2393, Eff. 10/30/92; AMD , 1992 MAR p. 2776, Eff. 12/25/92; AMD , 1998 MAR p. 182, Eff. 1/16/98; AMD , 1999 MAR p. 2904, Eff. 12/17/99; AMD , 2003 MAR p. 311, Eff. 2/28/03.